Applicant Initiated Interview Request Form

Application No.: 10/606,545   First Named Applicant: Victor Blake

Examiner: Joshua A. Murdough   Art Unit: 3621   Status of Application: Pending - nonfinal Office Action mailed 17June2009 - all claims rejected

Tentative Participants:

(1) Dennis M. de Guzman   (2) Ex. Joshua A. Murdough and Supervisor

(3) _____   (4) _____

Proposed Date of Interview: Wed. August 19   Proposed Time: 3:00 PM EST (AM/PM)

Type of Interview Requested:

(1) [x] Telephonic   (2) [ ] Personal   (3) [ ] Video Conference

Exhibit To Be Shown or Demonstrated: [ ] YES   [ ] NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) Rejection	Claim 1 and claim 37	Freeman (US Pub No. 2001/0049717) and Cullen (US Pub. No. 2003/0105800)	[ ]	[ ]	[ ]
(2) _____	_____	_____	[ ]	[ ]	[ ]
(3) _____	_____	_____	[ ]	[ ]	[ ]
(4) _____	_____	_____	[ ]	[ ]	[ ]

[ ] Continuation Sheet Attached

Brief Description of Arguments to be Presented:

A. Overview of the present applicant's embodiment(s): traffic to a plurality of servers is load balanced according to licenses that are available on each server. Claim 1 recites, *inter alia*, "load balancing according to license availability..." Claim 37 recites, *inter alia*, "...balance traffic amongst a plurality of servers according to a number of paid permitted connections

B. Page 6 (section 5) of the present Office Action states that "Freeman does not expressly show load balancing according to license availability." Page 6 (section 6) of the present Office Action then relies upon paragraph [0036] of Cullen as teaching "load balancing according to software application availability." I wish to discuss this reliance upon Cullen and why I believe that Cullen does not supply the missing teachings of Freeman, for the reasons set forth below.

C. Paragraph [0036] of Cullen teaches an administrative process 146 that can "g) provide load balancing based on, for example, processor usage/availability, network usage/availability, memory usage/availability, software application program usage/availability, message length, and/or message volume" (emphasis ours). This passage (g), to me, does not mean load balancing based on "license availability" but rather based on operational conditions or network/processor/memory/software availability.

In paragraph [0036] of Cullen, he states that another function of his administrative process 146 is "d) manage groups of objects (e.g., groups of transaction, originating, and/or destination digital data processing devices 114, 104, 198; groups of software application programs 112; groups of users authorized to access software application programs 112; groups of transaction digital data processing

devices 114 that host particular software application programs 112; groups of <u>licenses,</u> etc.).” This is the only passage in the entire Cullen document where “licenses” are mentioned and this passage (d) is not in the context of “load balancing” and is not disclosed by Cullen as being related to his passage (g) above that discusses load balancing.

An interview was conducted on the above-identified application on _____.

<u>NOTE:</u>
This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).
This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.33(b)) as soon as possible:

/Dennis M. de Guzman/
_____   _____
Applicant/Applicant's Representative Signature   (Examiner/SPE Signature)

Dennis M. de Guzman
_____
Typed/Printed Name of Applicant or Representative

41,702
_____
Registration Number, if applicable